

01907.00P124



PATENT APPLICATION

AF
3600
8/1/2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

TERRY HERMANSON

Application No.: 09/862,585 ✓

Filed: May 23, 2001

For: MOUNT FOR ATTACHING AN
ORNAMENT TO A TREE

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Examiner: K. Chan

Group Art Unit: 3632

July 10, 2002

Commissioner for Patents
Washington, D.C. 20231

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JUL 12 2002

GROUP 3600

REQUEST TO WITHDRAW PREMATURE FINALITY OF OFFICE ACTION

Sir:

FACTS

A final Office Action mailed June 3, 2002, included a rejection of Claims 1, 4, 6, 7, 9 and 12 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,939,004, to Fuss.

Although the Fuss patent was applied against the claims in the previous Office Action of December 14, 2001, the subject Office Action sets forth a new grounds of rejection based on a new interpretation of the Fuss patent. Namely, the Office Action asserts that a

clamping member 20 in Fuss (see Figure 2) is analogous to Applicant's claimed "housing." In the previous Office Action, a tubular member 24 in Fuss was equated to Applicant's claimed "housing." The subject Office Action also asserts that Applicant's amendment necessitated the new grounds of rejection, and thus made the action final under M.P.E.P. §706.07(a).

POINT TO BE REVIEWED

It is respectfully submitted, however, that the new grounds of rejection was not necessitated by the amendments to the claims.

The amended language added to Claims 1, 6 and 9 was previously recited in dependent Claims 2, 8 and 11, respectively, and thus should have been previously considered. Moreover, there are no claim amendments directed to the element in question, i.e., the claimed "housing" (or telescoping means in Claim 9).

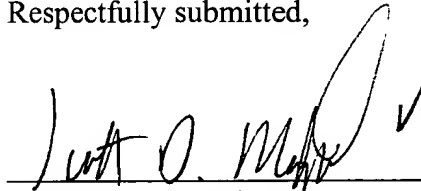
ACTION REQUESTED

It is respectfully submitted that the new grounds of rejection was not necessitated by claim amendments. Accordingly, the action was not properly made final under M.P.E.P. §706.07(a), and thus withdrawal of the finality is respectfully requested.

No fee is understood to be necessary in connection with the Request. However, any fees deemed to be necessary may be deducted from Deposit Account No. 06-1205.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott D. Malpede", is written over a horizontal line.

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